

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of : Customer Number: 46320
David KAMINSKY, et al. : Confirmation Number: 1386
Application No.: 10/635,598 : Group Art Unit: 2151
Filed: August 6, 2003 : Examiner: K. Tang
For: INTELLIGENT MAIL GATEWAY

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following remarks are submitted in response to the Notification of Non-Compliant Appeal Brief dated October 16, 2007 (hereinafter the Notice).

REMARKS

On page 2 of the Notice dated October 16, 2007, it was stated that " Applicant grouped two independent claims together in the Summary and the rules requires separate explanation for each independent claims" (emphasis added). In response, Appellants invite the Examiner to review the Rules again. 37 C.F.R. § 41.37(c)(1)(v) does not require that the independent claims be *separately* described. Instead, the Rules only require that each independent claim involved in the appeal receive a concise explanation, and each independent claim received a concise

explanation.

The following is the paragraph spanning pages 2 and 3 of the Appeal Brief filed August 30, 2007:

Referring to Figure 2 and independent claims 5 and 15, a method for intelligently handing an impairment to the delivery of e-mail messages to intended recipients in a mail delivery system is disclosed. In blocks 210, 220, received e-mail messages are stored prior to forwarding the messages to inboxes of respective mail servers (lines 1-5 of paragraph [0021]). In block 230, an impairment to delivering the messages to the inboxes is detected (lines 5-11 of paragraph [0021]). In block 240, senders for selected ones of the messages are identified (lines 15-16 of paragraph [0022]). In block 250, a notification of the impairment is forwarded to the identified senders (line 17 of paragraph [0022]).

As evident from the above paragraph, reference to Appellants' disclosure, both by paragraph and by line numbers has been performed and reference to the drawings has also been performed. This paragraph refers to both independent claims 5 and 15 since, as evident from the below table, the steps recited in both claims 5 and 15 are identical.

Steps of claim 5	Steps of claim 15
storing received e-mail messages prior to forwarding said messages to inboxes of respective mail servers	storing received e-mail messages prior to forwarding said messages to inboxes of respective mail servers
detecting an impairment to delivering said messages to said inboxes	detecting an impairment to delivering said messages to said inboxes
identifying senders for selected ones of said messages	identifying senders for selected ones of said messages
forwarding a notification of said impairment to said identified senders	forwarding a notification of said impairment to said identified senders

Appellants, therefore, respectfully submit that the each of independent claims 5 and 15 has been properly summarized.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due under 37 C.F.R. §§ 1.17, 41.20, and in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: November 2, 2007

Respectfully submitted,

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CUSTOMER NUMBER 46320